

PAUL B. RHODES

IBLA 80-191

Decided May 29, 1980

Appeal from a decision of the California State Office, Bureau of Land Management, rejecting for purposes of recordation the notices of location for mining claims, CA MC 59831-865.

Affirmed.

1. Federal Land Policy and Management Act of 1976:  
Generally -- Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment --  
Mining Claims: Recordation

Under sec. 314 of the Federal Land Policy and Management Act of Oct. 21, 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2, the owner of a lode or placer mining claim must file a notice of recordation of the claim with the proper Bureau of Land Management Office within 90 days of location of the claim. Failure to so file is deemed conclusively to constitute an abandonment of the claim by the owner.

2. Notice: Generally -- Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

APPEARANCES: Paul B. Rhodes, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Paul B. Rhodes appeals from the decision of the California State Office, Bureau of Land Management (BLM), returning his notices of location for various mining claims, CA MC 59831-865, because he had

not filed the notices with BLM within 90 days after the date of location required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the corresponding regulation, 43 CFR 3833.1-2(b). Appellant's claims were located on various dates between July 1978 and January 1979. BLM received copies of the notices of filing on October 16, 1979.

In his statement of reasons, appellant argues that his claims were properly recorded at the Hall of Records in San Bernardino, California; he complied "with the directive of submitting claims before October 20, 1979" and he had not previously received notice of the requirements of 43 CFR 3833.1-2(b).

[1] Section 314 of FLPMA requires the owner of an unpatented lode or placer mining claim located after October 21, 1976, to file a copy of the official record of the notice of location in the BLM office designated by the Secretary of the Interior within 90 days after the date of the location. It also provides that failure to timely file such record shall be deemed conclusively to constitute an abandonment of the mining claim by the owner.

The pertinent regulation, 43 CFR 3833.1-2(b), provides as follows:

The owner of an unpatented mining claim, mill site, or tunnel site located after October 21, 1976, on Federal land shall file (file shall mean being received and date stamped by the proper BLM office), within 90 days after the date of location of that claim in the proper BLM office a copy of the official record of the notice or certificate of location \* \* \*.

Under FLPMA and the regulations, the requirements for filing are clear. The Board has repeatedly held that when a notice of a mining claim is not filed with BLM within 90 days from the date of location, it has no force and effect and must be rejected. M. J. Reeves, 41 IBLA 92 (1979); William E. Rhodes, 38 IBLA 127 (1978); R. Wade Holder, 35 IBLA 169 (1978). Such a claim must be deemed conclusively to have been abandoned under the terms of the statute. 43 U.S.C. § 1744(c) (1976); Phillip M. Gardiner, 41 IBLA 391 (1979).

[2] The responsibility for complying with the recordation requirements rested with appellant. The fact that appellant may have been unaware of the requirements of recordation, while unfortunate, does not excuse him from compliance. Those who deal with the Government are presumed to have knowledge of the law and the regulations duly adopted pursuant thereto. Federal Crop Ins. Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). This Board has no authority to excuse lack of compliance.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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James L. Burski  
Administrative Judge

We concur:

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Joseph W. Goss  
Administrative Judge

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Anne Poindexter Lewis  
Administrative Judge

